

Bret G. MacArthur, 194568
Utah State Prison
P.O. Box 250
Draper, Utah 84020

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

NOV - 6 2017

D. MARK JONES, CLERK
BY DEPUTY CLERK

United States District Court for the District of Utah
Central Division

Bret Golden MacArthur Pro Se
PLAINTIF

VS

Richard Garden et al.,
DEFENDANTS

Motion to Re-Open
The Case Previously closed
due to an error or a
mistake

PRO SE

Case: 2:15-CV-00117-DB
District Judge Dee Benson

Plaintiff Bret G MacArthur pro se hereby
moves the honorable court to reopen the above
captioned case.

The reason for this request is that he
has vigorously prosecuted this case to the best
of his ability and the case was only closed due
to an error or a mistake

Dated this 12th day of October, 2017

Bret MacArthur
Pro Se

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Draper, Utah 84020

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DEFENDANTS

Brief in Support of Motion
to reopen the case
previously closed due to
an error or a mistake

Case: 2:15-CV-00117-DB

District Judge Dee Benson

Statements of Fact:

1. The order to file an amended complaint was entered on April 20, 2017 not July 11, 2017 as stated in the memorandum ~~and~~ decision and order dated Sept 20, 2017.
2. Plaintiff's motion to amend the complaint was 'In the Box' to the contract attorneys for the Utah State prison on May 15, 2017 and received their memo, and his copies, that the amended complaint had been mailed to the court. The memo was dated May 18, 2017.

Arguments:

The plaintiff can think of three possible reasons why the court might have failed to recognize his performance in response to its April 20, 2017 order:

1. The Contract Attorneys failed to properly mail the Motion to Amend the Complaint to the court. But as it appears the court received the Motion for Appointment of Counsel that was part of the same mailing this would be unusual.
2. The Court received the Motion to Amend the complaint along with the supporting memo but did not recognize it as responsive to its order of April 20, 2017.
3. The Court was looking for the Amended Complaint after the order dated July 11, 2017 believing it to be the original order to Amend the Complaint and not a ruling on plaintiff's request for more time as plaintiff believed.

In any of these possibilities the plaintiff had still done his very best to be responsive to the orders of the court and should not be penalized by having his case closed.

The plaintiff begs the courts continued indulgence for the following reasons:

1. Plaintiff does not have access to the court building or the internet to be able to verify his submissions to the court are received.
2. Plaintiff does not have access to a law library nor to persons knowledgeable in the law.

Dated this 12th day of October, 2017

But no Arthur

pro se

Bret G. MacArthur, 194568
Utah State Prison
P.O. Box 250
Draper, Utah 84020

United States District Court for the District of Utah
Central Division

Bret Golden MacArthur Pro Se
PLAINTIF

VS

Richard Garden et al.

DEFENDANTS

Declaration in support
of motion to reopen
Case previously closed
due to an error or a
mistake

Case: 2:15-CV-00117-DB

District Judge Dee Benson

Plaintiff Bret Golden MacArthur declares under
penalty of Perjury:

1. On 4/25/17 I received a notice of Order
and Memorandum Decision in Case 2:15-CV-117-DB
set before Judge Dee Benson.
 - a) This Order filed 4/20/17 required me to
file an amended complaint to cure a
list of deficiencies in my original complaint
before further pursuing my claims.

2. Within a week of receiving this order I sent the court a motion requesting an extension of the time for me to file an Amended Complaint.
3. Not knowing if the extension would be granted, I labored diligently to produce the Amended Complaint within the original 30 day limit.
4. Having not received a ruling from the court on my motion for an extension by the 15th of May, 2017, I sent to the contract attorneys for the Utah State prison the following:
 - a) A 30 page Motion to Amend the Complaint signed and dated May 15, 2017.
 - b) A 2 page Plaintiffs Memo in support of Motion to Amend the Complaint signed and dated May 15, 2017.
 - c) A 1 page Motion for Appointment of Counsel signed and dated May 15, 2017.

I requested copies of the above documents and that the originals be mailed to

the U.S. District Court, District of Utah.

5. On May 22, 2017 I recieved a memo from the contract attorneys dated May 18, 2017 stating that the documents had been mailed to the U.S. District Court along with photocopies of all the documents listed in (4) above.

a) I have this memo and photocopies in my possession.

6. On or about 7/15/17 I recieved an order denying my motion to Appoint Council and ordering that my Ammended Complaint was due in 30 days.

This order was signed by Judge Dee Benson on 7/11/2017.

I understood this last order as denying my request for an extension as listed in (2) above. As I had mailed my motion to Ammend the Complaint within the Original 30 day time limit, I did not believe any further action on my part was required.

Dated this 12th day of October, 2017

Bret Norrington

Pro se

Bret MacArthur, 194368
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P.O. Box 250
Draper, Utah 84020-0250

INMATE MAIL
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